

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF WATER QUALITY AND  
SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD  
APRIL 5, 2006**

**ITEM 3**

**SUBJECT**

STATUS UPDATE ON IMPLEMENTATION OF STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2005-0060 REQUIRING DEVELOPMENT OF A REVISED TOTAL MAXIMUM DAILY LOAD FOR MERCURY IN THE SAN FRANCISCO BAY

**DISCUSSION**

At the September 7, 2005 meeting, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2005-0060 remanding an amendment to the Water Quality Control Plan for the San Francisco Bay Region to establish a total maximum daily load (TMDL) for mercury in the San Francisco Bay to the San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board). Resolution No. 2005-0060 instructed staff to provide in March 2006 a status report on the development of a revised mercury TMDL for San Francisco Bay, and a policy establishing alternative methods for dischargers to meet mercury effluent limitations.

The remand's issues can be grouped into the following areas:

1. The TMDL may not require all wastewater sources to implement the most effective pollution prevention practices and treatment technologies;
2. Dredging and watershed mercury legacy sources of mercury affecting San Francisco Bay may need more attention;
3. More public health risk reduction associated with consumption of mercury contaminated fish is needed; and
4. It is uncertain whether the TMDL bird egg wildlife target and the water quality objective for mercury in Bay waters will be attained by the TMDL.

The San Francisco Bay Water Board is responding to these issues as follows:

To resolve wastewater issues, the San Francisco Bay Water Board will evaluate and consider a revised wastewater wasteload allocation scheme in a revised Mercury TMDL Basin Plan Amendment that recognizes and drives load reductions that could be met via aggressive pollution prevention, offsets per a state pollutant trading program under development, and other cost-effective methods. It will also clarify that wastewater dischargers are required to monitor methylmercury in their effluent and to conduct studies regarding the bioavailability of mercury in wastewater effluent and the fate of such mercury after it enters the Bay.

To resolve the dredging issue, the San Francisco Bay Water Board will consider clarifying language in a revised Mercury TMDL Basin Plan Amendment to ensure that in-Bay disposal of dredged material containing mercury is consistent with the Long Term Management Strategy for the Disposal of Dredge Material in San Francisco Bay.

To resolve watershed mercury legacy source-related issues, the San Francisco Bay Water Board staff will further survey and evaluate mercury mine sites and Bay margin cleanup sites in the Region to ensure cleanup requirements will be consistent with the TMDL.

To resolve the public health risk issue, a multidisciplinary panel is being convened and charged with identifying at-risk populations to better target risk-reduction efforts and developing and assessing a range of potential actions to address and reduce health risks and impacts associated with consumption of Bay fish.

To resolve the target and water quality objective issues, the San Francisco Bay Water Board will consider a Basin Plan Amendment to vacate an outdated water column water quality objective for mercury in San Francisco Bay and replace it with fish tissue water quality objectives protective of wildlife and humans who consume Bay fish.

The San Francisco Bay Water Board staff is currently preparing these Basin Plan Amendments and supporting documents. It held a public workshop and California Environmental Quality Act scoping meeting on January 31, 2006, with attendance by stakeholders representing U.S. EPA, U.S. Fish and Wildlife Service, the Army Corps of Engineers, National Oceanic and Atmospheric Administration fisheries division, State and Central Valley Regional Water Boards, municipal agencies including stormwater agencies and publicly owned wastewater treatment plants, and environmental advocacy groups. It plans to release the Basin Plan Amendment package later in March for public review and comment, and a San Francisco Bay Water Board hearing to consider the proposed Basin Plan Amendments is scheduled for June.

Resolution No. 2005-0060 also instructed State Water Board staff to develop a State policy for water quality control that establishes alternative methods to allow dischargers to meet mercury effluent limitations that are directed to preventing contributions to excursions above water quality standards. The State Water Board instructed staff that the policy shall:

1. Allow dischargers to perform other activities aside from eliminating more mercury from their discharges than they would be required to remove by applicable technology-based effluent limitations.
2. Require more rigorous activities for:
  - (a) dischargers not in compliance with their wasteload allocations and/or other applicable criteria or objectives; and
  - (b) dischargers seeking to increase their mercury load.
3. Include provisions that recognize the efforts of those dischargers who are meeting or outperforming their wasteload allocations, and that recognize the expenditures made by dischargers who are employing higher treatment levels.
4. Include provisions that prevent localized disparate impacts.

**March 21, 2006**

The State Water Board further instructed staff that the policy shall not include requirements that would leverage existing point source discharges as a means of forcing dischargers to bear more than their fair share of responsibility for causing or contributing to any violation of water quality standards. The State Water Board defined “fair share,” in this context, as referring to the dischargers’ proportional contribution to the impairment of the water body.

Staff has identified policy questions regarding the directions provided and our interpretation of the Clean Water Act and its implementing regulations. Once these questions have been resolved, staff will hold a public scoping meeting to further define and narrow the scope of the proposed San Francisco Bay mercury offset policy.

**POLICY ISSUE**

This is an information item only.